

1 MICHAEL A. BURKE, ESQ. (SBN: 11527)
2 mburke@rssblaw.com
3 HANNAH E. WINSTON, ESQ. (SBN: 14520)
4 hwinston@rssblaw.com
5 **ROBISON, SHARP, SULLIVAN & BRUST**
6 71 Washington Street
7 Reno, Nevada 89503
8 Telephone: (775) 329-3151

9 L. EDWARD HUMPHREY, ESQ. (SBN: 9066)
10 Ed@hlawnv.com
11 **HUMPHREY LAW PLLC**
12 201 W. Liberty Street, Suite 350
13 Reno, Nevada 89501
14 Telephone: (775) 420-3500

15 *Attorneys for Plaintiff Stellar Snacks LLC*

16
17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

19 STELLAR SNACKS LLC, a Nevada
20 limited liability company,

21 Plaintiff,

22 vs.

23 JM CONSTRUCTION ENGINEERING,
24 INC. a California corporation; and JOHN
25 DOES 1-10, inclusive,

26 Defendants.

Case No. 3:19-cv-00716-MMD-CLB

27 **STIPULATION AND ORDER TO**
28 **DISMISS CASE WITHOUT**
PREJUDICE

29 It is hereby STIPULATED AND AGREED by and between Plaintiff STELLAR
30 SNACKS, LLC ("Plaintiff") and Defendant JM CONSTRUCTION ENGINEERING, INC
31 (collectively "Defendant"), by and through their attorneys of record, as follows:

32 1. Pursuant to this Court's Order to Show Cause dated March 25, 2020 (ECF.
33 27), Plaintiff undertook to review and confirm whether any of its owners/members are
34 residents of California which is the State of incorporation of Defendant. In conducting this
35 review, Plaintiff determined that one of its investors that holds a 1% ownership interest in

1 Plaintiff resides in California. Given that finding, diversity jurisdiction cannot be
2 maintained; and therefore, this Court lacks subject matter jurisdiction. This determination
3 was immediately disclosed to Counsel for Defendant.

4 2.! In subsequent discussions amongst counsel, it was agreed that the parties!
5 will stipulate to dismiss the above captioned action without prejudice so that Plaintiff could
6 refile its Complaint in the Second Judicial District Court of the State of Nevada, County of
7 Washoe which all parties believe to be the proper venue for this matter.

8 3.! Therefore, based upon the foregoing, the Parties hereby agree that, in!
9 accordance with Fed.R.Civ.P. 41(a)(1)(A)(ii), all claims asserted herein should be
10 dismissed without prejudice, with all parties bearing their own fees and costs.

11 **IT IS SO STIPULATED.**

12 DATED this 6th day of April, 2020.

13 **KOELLER, NEBEKER, CARLSON,**
14 **HALLUCK, LLP.**

15 /s/ David C. Bass
16 STEPHANIE L. YOUNG, ESQ.
17 DAVID C. BASS, ESQ.
18 1478 Stone Point Drive, Suite 400
19 Roseville, CA 95661
20 *Attorneys for Defendant JM Construction &*
21 *Engineering, Inc.*

DATED this 6th day of April, 2020.

ROBISON SHARP SULLIVAN & BRUST

/s/ Michael A. Burke
MICHAEL A. BURKE, ESQ.
71 Washington St.
Reno, NV 89503

L. EDWARD HUMPHREY, ESQ.
HUMPHREY LAW PLLC
201 W. Liberty Street, Suite 350
Reno, Nevada 89501
Attorneys for Plaintiff

22 **IT IS SO ORDERED.**

23 DATED this 6th day of April, 2020.

24 

25 UNITED STATES DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I certify that I am an employee of ROBISON, SHARP, SULLIVAN & BRUST, and that on this date I caused to be served a true copy of the **STIPULATION AND ORDER TO DISMISS CASE WITHOUT PREJUDICE** on all parties to this action by the method(s) indicated below:

_____ by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

Stephanie L. Young, Esq.
David C. Bass, Esq.
Koeller, Nebeker, Carlson & Haluck, LLP
1478 Stone Point Drive, Suite 400
Roseville, CA 95661

 X by using the Court's file and serve system.

_____ by electronic email addressed to:

_____ by personal delivery/hand delivery addressed to:

_____ by Federal Express, standard overnight delivery, addressed to:

DATED: This 6th day of April, 2020.

 /s/ Mary Carroll Davis
Employee of Robison, Sharp, Sullivan & Brust